IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

WP(C).No. 3364 of 2007(A)

PETITIONER:

K.P.MOHAN, AGED 65,
S/O. PARAMESWARAN KARATT, HOUSE NO.35/1166,
PALARIVATTOM.

BY ADV. SRI.N.K.MOHANLAL

RESPONDENTS:
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1. THE MANAGING DIRECTOR,
K.S.F.E., THRISSUR.

2. THE SPECIAL DEPUTY TAHASILDAR (R.R.),
K.S.F.E. LIMITED, KACHERIPPADI.

3. THE BRANCH MANAGER,
LOAN UNIT, KSFE, IS PRESS BUILDING,
BANERJI ROAD, ERNAKULAM.

BY ADV. SRI. RAJU JOSEPH, SC KSFE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 3364 OF 2007-A

JUDGMENT

The petitioner is in default to the K.S.F.E in relation to a loan availed of by him from it. Earlier, when revenue recovery steps were initiated, the petitioner approached this Court by filing W.P.(C) No.36271/2005. The said writ petition was disposed of, by Ext.P4 judgment, with the following direction:

> "The petitioner is directed to clear the instalment arrears due as on 31.12.2005 in four instalments payable along with regular monthly instalments from January to April 2006 on due dates. Revenue recovery proceedings will be kept in abeyance for payment as above and if petitioner commits default in payment of any of the arrear or regular instalments, then the instalment facility granted under this judgment will stand automatically cancelled and recovery will be continued on first default for recovery of entire arrears. If payment is made voluntarily, no collection charges should be recovered from the petitioner."

The petitioner could not comply with the above direction issued by this Court. Though, he has paid Rs.95,000/-, the K.S.F.E has initiated fresh recovery steps to recover the amount due. In the above background, this Writ Petition is filed, seeking the following reliefs:

> "(i) issue a writ of mandamus or any other appropriate

writ or order, directing the 2nd respondent to consider and dispose of Exhibit P3 representation for one-time settlement or for instalments at the rate of Rs.5000/- per month, after closing the arrears till 31st March, 2007 within two months.

(ii) issue a writ of mandamus or any other appropriate writ or order, directing the 2nd respondent to proceed first against the charged immovable property before proceeding against the movables."

2. As long as the above quoted direction in Ext.P4 judgment remains in force, no relief could be granted in this writ petition, unless the said judgment is reviewed or modified. Accordingly, the Writ Petition is dismissed without prejudice to any of the rights of the petitioner to move for appropriate modification of the above quoted direction in Ext.P4 judgment.

31st January, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/